

# Order

Michigan Supreme Court  
Lansing, Michigan

March 10, 2006

129923

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellant,

v

NICHOLAS JAMES BUEHLER,  
Defendant-Appellee.

Clifford W. Taylor,  
Chief Justice

Michael F. Cavanagh  
Elizabeth A. Weaver  
Marilyn Kelly  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman,  
Justices

SC: 129923  
COA: 254298  
Ottawa CC: 02-026593-FH

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On order of the Court, the application for leave to appeal the October 27, 2005 judgment of the Court of Appeals is considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we VACATE the judgment of the Court of Appeals and REMAND this case to that court to consider: (1) whether the circuit court provided substantial and compelling reasons for imposing a sentence that the circuit court acknowledged was a departure from the guidelines, see *People v Babcock*, 469 Mich 247, 257-258 (2003), and (2) whether any term of imprisonment that may be imposed by the circuit court is controlled by the legislative sentencing guidelines or by the indeterminate sentence prescribed by MCL 750.335a.

We do not retain jurisdiction.

CAVANAGH, J., would deny leave to appeal.



s0307

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

March 10, 2006

*Corbin R. Davis*

Clerk